# TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

Docket No. 02940313pa

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PATENT & TRADEMARK OFFICE

In re Application of: **McHugh et al.**
Application No. **10/677,735**
Filed: **October 3, 2003**
For: **HOMOGENOUS COMPOSITIONS OF POLYMERS AND CRYSTALLINE SOLIDS OR CROSS-LINKING AGENTS AND METHOD OF MAKING THE SAME**

The owner, **Virginia Commonwealth University** of **100** percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number **10/677,746**, filed on **October 3, 2003**. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

3. Owner/applicant is ☒ Small entity ☐ Large entity

The terminal disclaimer fee under 37 CFR 1.20(d) is $130.00 and is to be paid as follows:

☒ A check in the amount of the fee is enclosed.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number _____.

☐ Payment by credit card. Form PTO-2038 is attached.

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

PTO suggested wording for terminal disclaimer was

☒ unchanged ☐ changed (if changed, an explanation should be supplied.)

*Signature*

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*Name and Address of Person Signing*

**Michael E. Whitham**
**Reg. No. 32,635**
**Whitham, Curtis, Christofferson & Cook**
**11491 Sunset Hills Road, Suite 340**
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Dated: **June 26, 2006**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to [illegible] Alexandria, VA 22313-1450, [illegible] on

FC: 9204 $60.00 CR

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*(Date)*

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